THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 4976 of 2004

DATED: 08-08-2007

Between:-

Sundara Rami Reddy s/o Konda Reddy, 35 years, Salaman puram – village Buchi Reddy Palem Madalam Nellore District.

..PETITIONER

And

Commissioner of Prohibition and Excise, A.P. Hyderabad and another.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 4976 of 2004

O R D E R

Questioning the action of the 1st respondent, in ordering confiscation of the petitioner's Hero Honda two wheeler vehicle No. AP 26E 9167, as unconstitutional and to declare the proceedings dated 25-12-2003 in Crime No. 758/2002 as arbitrary and illegal, the present writ petition is filed.

The petitioner is the owner of the said vehicle. It is his case that one Ramana Reddy had requested him to give his vehicle for fetching books from Buchireddy Palem for his children and that later he learnt that the authorities had seized the vehicle for the crime under the Excise Act. It is stated that 40 bottles of 180 ml totaling to 7.2 lts. of IMFL were found in the possession of Sri Ramana Reddy when he was driving the vehicle, that the petitioner came to know about it later and that the vehicle was released on his furnishing an FDR for Rs. 35,000/. The petitioner would refer to the order of confiscation, and to the appeal filed by him, to submit that the Additional Judicial Magistrate of First Class, Kovur had acquitted Sri

Ramana Reddy on 07-07-2003. The petitioner also denies knowledge that the vehicle was used to carry contraband and submit that, in any event, since the confiscated quantity is only 7.2 litres, and the offence could be compounded, the impugned order is liable to be quashed.

In the counter-affidavit, a reference is made to the show cause notice dated 14-09-2001 issued to the petitioner and it is stated that the petitioner did not submit any objection thereto and hence the order of confiscation was passed. It is stated that a different vehicle number was erroneously mentioned and that it is only a typographical mistake. Reference is made to G.O.Ms. No. 756 dated 23-10-2002 to submit that cases involving vehicles carrying contraband could be considered for being compounded if the contraband involved is upto 10 lts. of IML in cases which are booked prior to 31-03-1997 only.

Learned Government Pleader would place before this Court a copy of G.O. Ms. No. 1084 dated 21-12-2004, wherein offences involving IMFL, for a maximum quantity of 26 litres, are now permitted to be compounded. Learned Government Pleader would submit that, in view of the amendment in G.O. Ms. No. 1084 dated 21-12-2004, it is always open to the petitioner to submit a representation to the 2nd respondent requesting that the offence be compounded.

Sri K.S. Murthy, learned counsel for the petitioner, submits that such a representation, requesting for compounding of the offence, would be filed within one month from the date of receipt of a copy of

this order. In case such a representation is filed the 2nd respondent shall pass necessary orders thereupon in accordance with law and in the light of G.O.Ms. No. 1084 dated 21-12-2004, within a period of three months from the date of receipt of such representation.

The writ petition is, accordingly, disposed of. No costs.

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RAMESH RANGANATHAN, J

Dated: 08-08-2007
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